

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NATHANIEL PORTER,

Plaintiff,

Case No. 1:05-cv-562

v.

Hon. Janet T. Neff

PATRICIA CARUSO, et al.,

Defendants.

_____/

ORDER APPROVING REPORT AND RECOMMENDATION

The court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C).

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge, filed August 7, 2008, is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that Defendant's Motion Regarding Availability of Monetary Damages and Qualified Immunity (Dkt. No. 157) is **GRANTED IN PART and DENIED IN PART** for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that Defendant Burnett is entitled to Eleventh Amendment immunity to the extent that Plaintiff seeks monetary damages against him in his official capacity for allegedly violating the Religious Land Use and Institutionalized Persons Act (RLUIPA) .

IT IS FURTHER ORDERED that Plaintiff is not entitled to recover monetary damages against Defendant Burnett in his personal capacity for allegedly violating RLUIPA.

IT IS FURTHER ORDERED that the Prison Litigation Reform Act (PLRA) does not impair Plaintiff's ability to recover compensatory damages on his First Amendment claim.

IT IS FURTHER ORDERED that Defendant is not entitled to qualified immunity.

Dated: August 22, 2008

/s/Janet T. Neff

JANET T. NEFF

UNITED STATES DISTRICT JUDGE